



**Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of Claims Against the Dealer Bond
of Tai Motors, LLC

Case No: DOT-21-0026

FINAL DETERMINATION

On June 9, 2021, Miriam Subias Vizcarra (Claimant) filed a claim against the motor vehicle bond of Tai Motors, LLC (Dealer) with the Wisconsin Department of Transportation (Department). Pursuant to the procedures set forth at Wis. Admin. Code § Trans 140.26, a Public Notice to File Dealer Bond Claims was published in the Portage Daily Register, a newspaper published in Arlington, Wisconsin on December 10, 2021. The notice informed other persons who may have claims against the Dealer to file them with the Department by February 8, 2022. No additional claims were filed. A Preliminary Determination was issued on March 11, 2022. No objections to the Preliminary Determination were received. Pursuant to Wis. Admin. Code § Trans 140.26(5)(d), the Preliminary Determination is adopted as the final decision of the Department of Transportation.

In accordance with Wis. Stat. §§ 227.47 and 227.53(1)(c) the PARTIES to this proceeding are certified as follows:

Tai Motors, LLC,
101 Skyline Dr. #1 W262
Arlington, WI 53911-9520

Tai Mohmadamir
6250 W. Washtenaw Ave. #1N
Chicago, IL 60659

Western Surety Company
101 South Reid Street, Suite 300
Sioux Falls, SD 57103

Mariam Subias Vizcarra
333 Amarillo Dr.
Carpentersville, IL 60110

FINDINGS OF FACT

1. Tai Motors, LLC (Dealer) was licensed by the Wisconsin Department of Transportation as a motor vehicle wholesale dealer. The Dealer went out of business on May 1, 2021. The Dealer's facilities were located at 101 Skyline Dr #1 W262, Arlington, Wisconsin.

2. The Dealer has had a continuous surety bond in force in the amount of \$25,000 satisfying the requirements of Wis. Stat. § 218.0114(5) beginning March 27, 2019 (Bond # 64576997 from Western Surety Company).

3. On or about September 21, 2020, the Dealer placed a bid to purchase a 2011 GMC Acadia (Vehicle) with a vehicle identification number of 1GKKRTEDXBJ309326 at the Jefferson Midstate Auto Auction. According to the Autocheck Vehicle History Report and title transfer documents, the odometer reading on the vehicle at that time was 185,876.

4. On October 22, 2020, the Claimant, Mariam Subias Vizcarra, purchased the vehicle from the Dealer for \$9,500. According to the assignment of title prepared for the Claimant on October 22, 2020, the odometer read 108,000.

5. On January 5, 2021, an investigator with the Wisconsin Department of Transportation, Dealer and Agent Section completed a review of the vehicles with over 170,000 miles purchased by the Dealer at Jefferson Midstate Auto Auction and discovered the odometer discrepancy for the Vehicle. The Autocheck vehicle history report for the Vehicle indicated an odometer reading of 185,876 miles as of September 21, 2020 followed by an odometer reading of 108,000 miles as of November 16, 2020.

6. On February 12, 2021, a Department investigator requested and received a copy of the certificate of title provided to Jefferson Midstate Auto Auction when it purchased the vehicle. The certificate of title for the vehicle showed an odometer reading of 185,875. The Department investigator then notified the Claimant of the odometer discrepancy.

7. On June 9, 2021, the Claimant submitted a claim against the surety bond of the Dealer with the Department. The claim seeks damages in the amount of \$25,000, which the Claimant indicates is for repairs to the motor (\$1,450), suspension (\$1,000), brake rotor and pads (\$300), mileage (\$8,000) and emotional damage and fraud (\$14,250). The Claimant subsequently submitted an estimate to the Department in support of her claim for repairs relating to the vehicle suspension in the amount of \$3,564.75.

8. The claim arose on October 22, 2020, which is the date the Claimant purchased the vehicle. The bond claim was filed within three years of the ending date the bond issued by Western Surety Company was in effect.

9. On or about November 11, 2021, the Department referred the Claimant's bond claim to the Division of Hearings and Appeals for a declaratory ruling pursuant to Wis. Admin. Code § Trans 140.26(1). The Department recommended that the claim be paid in the amount of \$7,364.75.

DISCUSSION

The procedure for determining claims against dealer bonds is set forth in the Transportation Chapter 140, Subchapter II, of the Wisconsin Administrative Code.

A claim is an allowable claim if it satisfies each of the following requirements and is not excluded by sub. (2) or (3):

(a) The claim shall be for monetary damages in the amount of an actual loss suffered by the claimant.

(b) The claim arose during the period covered by the security.

(c) The claimant's loss shall be caused by an act of the licensee, or the [licensee's] agents or employees, which is grounds for suspension or revocation of any of the following:

1. A salesperson license or a motor vehicle dealer license, in the case of a secured salesperson or motor vehicle dealer, pursuant to s. 218.0116(1)(a) to (gm), (im)2., (j), (jm), (k), (m) or (n) to (p), Stats.

...

(d) The claim must be made within 3 years of the last day of the period covered by the security. The department shall not approve or accept any surety bond or letter of credit which provides for a lesser period of protection.

Wis. Admin. Code § Trans 140.21(1).

Accordingly, to allow the Claimant's claim against the Dealer's surety bond a finding must be made that the Dealer violated one of the sections of Wis. Stat. § 218.0116(1), identified in Wis. Admin. Code § Trans 140.21(1)(c)1, and that the violation caused the loss claimed.

In the present matter, the evidence demonstrates that the Dealer tampered with the vehicle's odometer by rolling it back to appear that it had at least 77,876 fewer miles on it and then intentionally misrepresented the vehicle's odometer reading in the sale of the vehicle to the Claimant, a retail buyer. The Dealer's actions constitute multiple violations of law, including the following:

A wholesaler may not sell motor vehicles to retail buyers.

Wis. Admin. Code § Trans 138.027(2).

No ... motor vehicle wholesaler ... may engage in business as a motor vehicle dealer in this state without a license therefor as provided in ss. 218.0101 to 218.0163. ... Every motor vehicle dealer shall be responsible for the licensing of every motor vehicle salesperson or motor vehicle buyer in his or

her employ. Any person violating this subsection may be required to forfeit not less than \$500 nor more than \$5,000.

Wis. Stat. § 218.0114(1).

A person required to be licensed ... may not sell, offer for sale or have possession of a motor vehicle if any of the following applies: ... the mileage disclosure statement has been altered.

Wis. Stat. § 218.0146(3)(b).

No transferee, nor any other person, may alter, erase or obliterate any information, including the mileage disclosure, contained on any mileage disclosure statement.

Wis. Stat. § 342.155(3).

Because the above violations occurred as a result of a vehicle sale, they constitute a violation of Wis. Stat. § 218.0116(1)(gm), which specifies that a license may be denied, suspended or revoked for having violated any law relating to the sale of motor vehicles. Therefore, the claim is allowable pursuant to Wis. Admin. Code § Trans 140.21(1)(c)5.

The Claimant sustained a loss because of the Dealer's odometer tampering and misrepresentation, which resulted in her overpaying for a vehicle that had at least 77,876 more miles on it than reported. As a result, she is entitled to reimbursement in the amount of \$3,800, which represents 40% of the purchase price.¹ Additionally, the Department recommends reimbursement for \$3,564.75 in repairs related to the Vehicle suspension, which may be related to the higher mileage.²

The Claimant's bond claim form submitted in this matter lists the total amount of the claim as \$25,000; however, this amount includes claims for emotional damage because of the Dealer's fraud, additional compensation for the mileage, and other repairs to the vehicle that are unsupported by documentation and lack evidence to show how the repair is related to the acts of the Dealer. These claims for penalties or punitive damages are not allowed under Wis. Admin. Code § Trans 140.21(2)(e). Thus, the Claimant's actual loss is limited to \$7,364.75, which consists of 40% of the purchase price (\$3,800) and repairs related to the vehicle suspension (\$3,564.75).

CONCLUSIONS OF LAW

1. Mariam Subias Vizcarra's claim arose on October 22, 2020, which is the date that the vehicle was purchased from the Dealer. The continuous surety bond issued to the Dealer by

¹ See DOT precedent using the lesser of two calculation models, either \$0.06 per rolled-back mile or 40% of the purchase price. DOT-18-0019 and DOT-18-0022.

² Estimate from Merlin Complete Auto Care provided by Claimant.

Western Surety Company covers the period commencing on March 27, 2019. The claim arose during the period covered by the surety bond.

2. On June 9, 2021, Mariam Subias Vizcarra filed a claim against the motor vehicle bond of the Dealer. The bond claim was filed within three years of the last day of the period covered by the surety bond. Pursuant to Wis. Admin. Code § Trans 140.21(1)(d), the claim is timely.

3. The Dealer violated Wis. Admin. Code § Trans 138.027(2) and Wis. Stat. §§ 218.0114(1), 218.146(3)(b), and 342.155(3) during a vehicle sale, which constitutes a violation of Wis. Stat. § 218.0116(1)(gm).

4. Mariam Subias Vizcarra's loss was caused by an act of the Dealer that would be grounds for suspension or revocation of its motor vehicle wholesale dealer license. The Claimant has supplied documentation that she paid \$9,500 and incurred additional repairs in the amount of \$3,564.75 for a vehicle with a tampered odometer that misrepresented the actual mileage by at least 77,876 fewer miles, representing an actual loss sustained under Wis. Admin. Code § Trans 140.21(1)(c).

5. The Division of Hearings and Appeals has authority to issue the following order. Wis. Stat. §§ 227.43(1)(br) and 227.41(1) and Wis. Admin. Code § Trans 140.26(1).

ORDER

The claim filed by the Claimant, Mariam Subias Vizcarra against the motor vehicle dealer bond of Tai Motors, LLC is APPROVED in the amount of \$7,364.75. Western Surety Company shall pay the Claimant Mariam Subias Vizcarra this amount for her loss attributable to the actions of Tai Motors, LLC.

Dated at Madison, Wisconsin on April 22, 2022.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way
Madison, Wisconsin 53705
Telephone: (414) 227-4025
FAX: (608) 264-9885

By: 
Angela Chaput Foy
Administrative Law Judge

NOTICE

Set out below is a list of alternative methods available to persons who may wish to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to ensure compliance with Wis. Stat. § 227.48 and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Department of Transportation a written petition for rehearing pursuant to Wis. Stat. § 227.49. A copy of any such petition for rehearing should also be provided to the Administrative Law Judge who issued the order. Rehearing may only be granted for those reasons set out in Wis. Stat. § 227.49(3). A petition under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.
2. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Wis. Stat. §§ 227.52 and 227.53. Said petition must be served and filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (1) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Pursuant to Wis. Admin. Code § TRANS 140.26(7), the attached final decision of the Administrative Law Judge is a final decision of the Department of Transportation, so any petition for judicial review shall name the Department of Transportation as the respondent. The Department of Transportation shall be served with a copy of the petition either personally or by certified mail. The address for service is:

Office of General Counsel
Wisconsin Department of Transportation
4822 Madison Yards Way, 9th Floor South
Madison, Wisconsin 53705

Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. § 227.52 and 227.53 to ensure strict compliance with all its requirements.